THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.22952 OF 2005

31.10.2005

Between:

M.Jayakrishna, S/o.Late Jangaiah @ Jagannadham

… Petitioner

AND

1. The District Collector, Hyderabad

and another

… Respondents

ORDER:

The petitioner seeks a direction to the respondents, namely, the District Collector, Hyderabad and Municipal Corporation of Hyderabad (MCH), not to interfere with the peaceful possession of the land, Acs.1.06 gts., in Survey No.17, Acs.3.11 gts., in Survey No.18 and Acs..0.27 gts., in Survey No.19, corresponding to T.S.Nos.9, 8 and 7 respectively. The petitioner alleged that his grand mother was the pattadar of these lands, which are inherited by the petitioner. When there was an attempt in 1991 by the respondents to interfere with the possession, the petitioner along with his mother filed W.P.No.1409 of 1991 and also C.C.No.554 of 1996. Subsequently, in 1995, the Joint Collector issued proceedings dated 20.1.1995 declaring the property as Escheat lands under A.P. Escheats and Bona Vacantia Act, 1975 and assailing the same, the petitioner filed another writ petition being W.P.No.22007 of 1996. The petitioner alleged that these matters were disposed of by this Court on 31.8.2005. When the petitioner was in possession of the land, on 22.10.2005, the Additional Commissioner of MCH and revenue officials came to the land in Survey Nos.17, 18 and 19 and demanded to vacate the premises. They did not issue any notice nor provided opportunity. Therefore, the petitioner filed the present writ petition.

The Mandal Revenue Officer, Nampally (MRO) filed counter affidavit on behalf of the first respondent. It is stated that the land in T.S.No.23 is a Government land and the lands in Survey Nos.17, 18 and 19 corresponding to T.S.Nos.9, 8 and 7 respectively are also Government lands as per the town survey taken up in 1976. While denying the petition averments, it is stated that when there is an encroachment in T.S.No.23, the structures were demolished and the first respondent has taken up temporary sheds in Survey No.23 for laying NIS and SIS by Hyderabad Metro Water Supply and Sewerage Board in Moosy river bed. The allegation that the respondents demolished the structures in Survey Nos.17, 18 and 19 is denied.

Learned Counsel for the petitioner, Sri V.Srinivas, has taken this Court through the common order in W.P.No.1409 of 1991 etc., dated 31.8.2005 and also the other proceedings in support of the contention that the petitioner is in possession of the land in Survey Nos.17, 18 and 19 and therefore, without there being any notice, the petitioner cannot be dispossessed nor evicted. **Per contra**, the learned Government Pleader for GAD and Municipal Administration, Sri P. Vinod, submits that the writ petition is filed without cause of action and that the respondents never interfered with the possession of the petitioner. While asserting that the petitioner is an encroacher on the Government land in Survey No.17 (T.S.No.9), Survey No.18 (T.S.No.8) and Survey No.19 (T.S.No.7) and that he is not having any title over the land, the learned G.P. submits that on 29.10.2005, the Mandal Revenue Officer, initiated action under Land Encroachment Act, 1905 (the Act, for short) by issuing notice under Section 7 of the Act. A copy of the notice is placed before this Court.

This Court in its order dated 31.8.2005 in W.P.No.1409 of 1991 etc., noticed that the petitioner appears to be in possession of the land in Survey Nos.17, 18 and 19. However, this Court declined to go into the question of title, leaving it to the parties to agitate the matter before the appropriate Court. In the counter affidavit filed in this writ petition, at para 5, the allegation made by the petitioner that the respondents tried to interfere with the possession is denied, though it is admitted that the illegal constructions made in T.S.No.23 were removed by the respondents so as to take up NIS and SIS schemes. Be that as it is, now that the MRO issued notice under Section 7 of the Act and the petitioner to file explanation within a period of one week. Thereupon, the Mandal Revenue Officer concerned shall consider the explanation and the material that may be filed by the petitioner, and pass appropriate orders within two weeks thereafter. Till appropriate orders are passed, there shall be *status quo* as to possession insofar as the land in Survey No.17 (T.S.No.9), Survey No.18 (T.S.No.8) and Survey No.19 (T.S.No.7) of Thotaguda village, Nampally Mandal, Hyderabad.

The writ petition is, accordingly, disposed of. No costs.

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October 31, 2005. (**V.V.S.RAO,J**)

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